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Colorado

Amendments to Public Utilities Act, 1917.

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# The Public Utilities Commission

OF THE

State of Colorado

Laws of Colorado pertaining to the jurisdiction of the state Public utilities commission (1915) - #

## AMENDMENTS TO PUBLIC UTILITIES ACT

1917



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## Amendments to Public Utilities Act.

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Section 29. (*Amended. Approved April 16, 1917; effective April 16, 1917.*)—The commission shall have power, after hearing had on its own motion or upon complaint, to make general or special orders, rules or regulations or otherwise to require each public utility to maintain and operate its line, plant, system, equipment, apparatus, tracks and premises in such manner as to promote and safeguard the health and safety of its employees, passengers, customers and the public and to require the performance of any other act which the health or safety of its employees, passengers, customers or the public may demand. The commission shall have power to determine, order and prescribe in accordance with the plans and specifications to be approved by it the just and reasonable manner including the particular point of crossing at which the tracks or other facilities of any public service company may be constructed across the tracks or other facilities of any other public service company at grade, or above or below grade, or at the same or different levels; or at which the tracks or other facilities of any railroad corporation or street railway corporation may be constructed across the tracks or other facilities of any other railroad corporation or street railway corporation or across any public highway at grade, or above or below grade; or at which any public highway may be constructed across the tracks or other facilities of any railroad corporation or street railway corporation at grade, or above or below grade; and to determine, order and prescribe the terms and conditions of installation and operation, maintenance and protection of all such crossings which may now or hereafter be constructed including the watchman thereat or the installation and regulation of lights, block, interlocking or other system of signalling, safety appliance devices or such other means or instrumentalities as may to the commission appear reasonable and necessary, to the end, intent and purpose that accidents may be prevented and the safety of the public promoted.

The commission shall also have power upon its own motion or upon complaint and after hearing as hereinbefore provided, (of which all the parties in interest including the owners of adjacent property shall have due notice) to order any crossing aforesaid now existing or hereafter constructed at grade or at the same or



different levels to be re-located or altered or to be abolished according to plans and specifications to be approved and upon just and reasonable terms and conditions to be prescribed by the commission, and to prescribe the terms upon which the separation should be made, and the proportion in which the expense of the alteration or abolition of the crossing, or the separation of the grade, should be divided between the railroad or street railway corporation affected or between the corporation or corporations and the state, county, municipality or public authority in interest.

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Section 35. (*New section. Approved April 16, 1917; effective July 16, 1917. Section 35 as enacted by legislature in original act in 1913 failed of approval on referendum in 1914.*)—(a). No public utility shall henceforth begin the construction of a new facility, plant or system, or of any extension of its facility, plant or system, without first having obtained from the commission a certificate that the present or future public convenience and necessity require or will require such construction; provided, that this section shall not be construed to require any corporation to secure such certificate for an extension within any city and county or city or town within which it shall have theretofore lawfully commenced operations, or for an extension into territory, either within or without a city and county or city or town, contiguous to its facility, or line, plant or system, and not theretofore served by a public utility of like character, or for an extension within or to territory already served by it, necessary in the ordinary course of its business; and provided, further, that if any such public utility, in constructing or extending its line, plant or system, shall interfere or be about to interfere with the operation of the line, plant or system of any other public utility already constructed, the commission, on complaint of the public utility claiming to be injuriously affected, may, after hearing, make such order prohibiting such construction or extensions or prescribing such terms and conditions for the location of the lines, plants or systems affected as it may seem just and reasonable.

(b). No public utility shall henceforth exercise any right or privilege under any franchise, permit, ordinance, vote or other authority hereafter granted, or under any franchise, permit, ordinance, vote or other authority heretofore granted but not heretofore actually exercised, or the exercise of which has been suspended for more than one year, without first having obtained from the commission a certificate that public convenience and necessity re-

quire the exercise of such right or privilege; provided, that when the commission shall find, after hearing, that a public utility has heretofore begun actual construction work and is prosecuting such work, in good faith, uninterruptedly and with reasonable diligence in proportion to the magnitude of the undertaking, under any franchise, permit, ordinance, vote or other authority heretofore granted but not heretofore actually exercised, such public utility may proceed, under such rules and regulations as the commission may prescribe, to the completion of such work, and may, after such completion, exercise such right or privilege; and provided, further, that this section shall not be construed to validate any right or privilege now invalid or hereafter becoming invalid under any law of this state.

(c). Before any certificate may issue under this section, a certified copy of its articles of incorporation or charter, if the applicant be a corporation, shall be filed in the office of the commission. Every applicant for a certificate shall file in the office of the commission such evidence as shall be required by the commission to show that such applicant has received the required consent, franchise, permit, ordinance, vote or other authority of the proper county, city and county, municipal or other public authority. The commission shall have power, after hearing, to issue said certificate, as prayed for, or to refuse to issue the same, or to issue it for the construction of a portion only of the contemplated facility, line, plant or system, or extension thereof, or for the partial exercise only of said right or privilege, and may attach to the exercise of the rights granted by said certificate such terms and conditions as in its judgment the public convenience and necessity may require. If such public utility desires to exercise a right or privilege under a franchise, permit, ordinance, vote or other authority which it contemplates securing, but which has not as yet been granted to it, such public utility may apply to the commission for an order preliminary to the issue of the certificate. The commission may thereupon make an order declaring that it will thereafter, upon application, under such rules and regulations as it may prescribe, issue the desired certificate, upon such terms and conditions as it may designate, after such public utility has obtained the contemplated franchise, permit, ordinance, vote or other authority. Upon the presentation to the commission of evidence satisfactory to it that such franchise, permit, ordinance, vote or other authority has been secured by such public utility, the commission shall thereupon issue such certificate. The commission shall charge a reasonable fee,

not exceeding fifty cents on each one thousand dollars of capital to be invested, for issuing said public convenience and necessity certificate.

(d). Every license, permit or franchise hereafter granted to any public utility, other than a municipality, shall be subject to the provision that the municipality in which all or part of its property is situated may purchase the property of such public utility actually used and useful for the convenience of the municipality at any time as provided herein, paying therefor just compensation to be determined by the commission and according to the terms and conditions fixed by said commission. Any such municipality is authorized to purchase such property, and every such public utility is required to sell such property at the value and according to the terms and conditions determined by the commission.

(e). Any municipality shall have the power to purchase either with or without an agreement with any public utility or to acquire and to operate the property of any public utility actually used and useful for the convenience of the public then operating under a license, permit or franchise existing at the time this act takes effect, or operating in such municipality without any permit or franchise.

(f). Whenever the commission shall have been notified by either party that the officials of a municipality have, by ordinance duly passed, expressed the intention and desire of the municipality to purchase the plant, property or facilities of a public utility, and that the parties of such purchase and sale have been unable to agree on just compensation to be paid and received or the officials of a municipality have by ordinance duly passed, expressed the intention and desire of the municipality to purchase any such plant, property or facilities of a public utility and the owner thereof has refused to sell the same, the commission shall proceed to set a time and place for a public hearing upon the matters of the just compensation to be paid for the taking of the property of such public utility and of all other terms and conditions of the purchase and sale, and shall give to the municipality and the public utility interested not less than 30 days' notice of the time and place when and where such hearing will be held and such matters considered and determined, and shall give like notice to all mortgagees, trustees, lienors, and all other persons having or claiming to have any interest in such public utility, by publication of such notice once a week

for not less than three successive weeks in at least one newspaper of general circulation and published in the county in which the property of such public utility to be taken is located, which publication shall be caused to be made by the municipality. Within a reasonable time, not exceeding one year, after the time fixed for such hearing in such notice, the commission shall, by order, fix and determine and certify to the municipal council, to the public utility and to any mortgagee, trustee, lienor or other creditor appearing at such hearing, the just compensation to be paid for the taking of the property of such public utility actually used and useful for the convenience of the public, and all other terms and conditions of sale and purchase which it shall ascertain to be reasonable. The compensation and other terms and conditions of sale and purchase so certified shall constitute the compensation and terms and conditions to be paid, followed and observed in the purchase of such plant from such public utility. Upon the filing of such certificate with the clerk of such municipality, and upon compliance with the terms and conditions of sale so certified, the exclusive use of the property taken shall vest in such municipality; provided, however, that this act shall in no way interfere with any existing right of condemnation of a municipality to acquire the property of any public utility, unless the municipality shall waive such right to so acquire by electing to purchase the plant, property or facilities of a public utility or a part thereof as provided in this act; and provided, further, that nothing herein contained shall in any way interfere with any existing legal right which a municipality may have to impose reasonable charges upon a public utility for the use of the streets, alleys and ways of the municipality by a public utility.

(g). Any municipality which has acquired or constructed any public utility plant, property or facility shall have the power to contract with a public utility for the operation of any part or the whole thereof, subject to the provisions of this act, and to exercise by the commission in respect to such public utility of the powers of regulation and supervision conferred upon it by this act.

(h). Provided, however, that this section shall not apply to steam railroads; and no municipality shall have the power or authority under this section to acquire any of the property which is connected with or used in aid of the general plant or system of any common carrier, as defined by "An act to regulate commerce," approved February 4, 1887, and the existing acts amendatory thereof and supplemental thereto.









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